



Legal Compliance and Education Update

March 2025

Agenda

- Welcome and Purpose of Session
- Education Update
- Legislative changes of note
- From Collective Agreement to Modern Awards
- Timesheets
- Time Off in Lieu (TOIL) management
- Annual Leave
- School Based Apprentices and Trainees (SBATs)
- Allowances
- Performance Management
- WHS Incident and Accident Reporting

Welcome and Purpose of Session

- To provide Host Employers with an update on key changes to the ASQA Standards and our response to these changes
- To equip Host Employers with the knowledge and understanding of the current laws and regulations impacting trainees
- To ensure Host Employers have a clear understanding of their role and responsibilities in a traineeship
- To clarify and confirm mandatory practices and ways of working
- To have a forum for questions about the content of this session

Education Update



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2025 ASQA Standards: Key Changes

1. Outcome-Focused Approach

We're moving away from simply documenting procedures to demonstrating real impact through:

- Student completion rates
- Employment outcomes
- Industry satisfaction metrics

2. Quality Framework

The quality framework introduces enhanced requirements across three critical areas:

- Real-time monitoring and validation of training quality assurance
- Rigorous assessment validation with continuous industry engagement
- Proactive, data-driven student support systems for early intervention

3. Compliance Integration

Compliance is now elevated to a standalone concept, requiring:

- Dedicated monitoring framework with clear KPIs
- Documented continuous improvement pathways linked to outcomes
- Preventative risk management approach

4. Strategic Impact

These changes will affect our entire operation:

- More frequent and meaningful industry consultation
- Systematic tracking and reporting of employment outcomes
- Dynamic and responsive governance based on outcome data

Our Strategic Response

Traditional Approach

- Theory-heavy classroom sessions
- Assessments separated from real work
- Limited workplace integration
- Generic training scenarios

Our New Approach

- Practical, workplace-integrated learning
- On-the-job observation and assessment
- Real-world problem solving
- Industry-specific scenarios and applications

Key Delivery Transformations

- **Revised Assessment Methods:** Moving from theory-based to practical observations based on your workplace
- **Enhanced Industry Consultation:** Your input directly shapes training content and methods
- **Workplace Evidence Collection:** Students demonstrate competencies through actual work tasks
- **Integrated Learning Journey:** Training schedule aligned with workplace skill development needs
- **Digital Evidence Portfolio:** Real-time tracking of workplace competency development

Working Together

Student Expectations

- Attend compulsory 3-hour delivery sessions
- Coordinate with supervisors for scheduling
- Complete assessments by unit completion dates
- Attend assessment sessions (strongly recommended)
- Participate in pit stop sessions if behind
- **Communicate** scheduling conflicts in advance

Host Employer Role

- Support training schedule with advance planning
- Facilitate workplace evidence collection
- Provide opportunities for apply learning
- Engage in competency validation
- Participate in industry consultation activities
- Communicate workplace changes that impact training

National Delivery Schedule Overview

- **Delivery Sessions:** Compulsory 3-hour interactive classes with experiential learning
- **Assessment Sessions:** Detailed guidance on meeting competency requirements (strongly recommended)
- **Pit Stop Sessions:** Targeted support for students who have fallen behind (compulsory if behind)

Flexible Options

- Multiple session times available (e.g., five sessions across a 2-week period)
- Alternative session attendance available with advance notice
- Clear unit completion dates to ensure steady progress

Legal Compliance Update



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Legislative changes of note

1. Positive duty to protect employees from sexual harassment, bullying, hostile workplaces and discrimination (Dec 2022)
 - Proactive not reactive approach
 - Robust incident reporting, policies and procedures, investigations, training and development
 - Psychologically safe workplace
2. Wage theft – Criminalisation (Jan 2025)
 - An employer will commit an offence if they fail to pay an employee their full benefit or entitlement
 - This will be deemed a criminal offence where, beyond reasonable doubt, the underpayment was intentional
 - Fines or imprisonment may apply to an entity or individual

From Collective Agreement to Modern Awards

- The AFL SportsReady (Trainee) Collective Agreement 2006 previously in place meant that all trainees, regardless of industry or position, had the same terms and conditions of employment.
- The Collective Agreement terminated on 7 December 2023 and from this date, trainees have been covered by the Modern Award relevant to their trainee position and industry.
- There are currently 13 Awards covering our trainees, all with different ordinary hours and days of work, penalty rates, overtime requirements, breaks and allowances.
- Award Information Sheets provide details of the main terms and conditions for each Award.
- ConnX has been developed to capture all the relevant information to ensure trainees are paid in accordance with the Awards, but it is essential that information entered into ConnX is accurate.

Timesheets

- Timesheets are a legal document between the trainees, the Host Employer and the Australian Taxation Office.
- Timesheets are a declaration of the hours worked, whether any shift penalties apply, overtime worked, and allowances required to be paid under the Award.
- Given the seriousness of new Wage Theft laws, falsifying timesheets or making genuine errors due to a lack of attention can have profound consequences.
- It is an offence to make a false declaration on a timesheet or fill out a timesheet on behalf of someone else.

Timesheets

Best practice approaches to timesheet set up

- Prior to commencement, a Work Schedule needs to be agreed between the trainee and Host Employer, then communicated to your Employment Coach via the **Work Schedule and Information Request Form**. This establishes the base roster and timesheet.
- Establish what allowances are to be paid under the Award and establish whether Time Off in Lieu (TOIL) will be required. This is also to be communicated to your Employment Coach via the **Work Schedule and Information Request Form**.
- If your trainee agrees to take TOIL, complete an **Agreement for Time off Instead of Payment for Overtime Form** and send a copy to your Employment Coach.
- Ensure the correct person is set up to approve timesheets. Someone who has visibility and oversight of the trainee's roster and hours worked and can confirm the timesheet is accurate.

Timesheets

Best practice approaches to managing timesheets

- Ensure all changes to trainees' work schedules are agreed and recorded in writing:
 - ✓ For permanent changes to work schedules: Complete the **Variation to Pattern of Work and Regular Hours Form** and send to your Employment Coach.
 - ✓ For temporary or one-off changes: Host Employers are to update ConnX themselves.
- Check and confirm that timesheets submitted match the scheduled hours each day (unless overtime has been worked). If it does not match, the timesheet should not be approved.
 - ✓ **Example:** A timesheet with a total of 6.8 hours for the day should not be approved if the trainee is scheduled to work 7.6 hours a day. If the timesheet is missing time, please contact the trainee to resolve the issue before approving. The total hours (including any annual leave, TOIL used, unpaid leave, special leave etc) must equal the scheduled hours.

Timesheets

Best practice approaches to managing timesheets

- Proactively manage TOIL and Annual Leave to avoid a large payout at the end of the traineeship.
- Remind trainees that if they receive an email advising that their timesheet has been rescinded, then they need to act on the email and look at what the issue is. If they ignore the email, they risk not being paid.

Time Off In Lieu (TOIL)

- TOIL is determined by the relevant Award. It is an offence to act outside the Award and there are serious consequences for doing so.
- If a Host Employer and trainee want to use TOIL, then a TOIL agreement must be signed once the trainee starts and before the first hour of overtime is accrued.
- The trainee, Host Employer and our payroll team need to keep accurate records. Overtime and TOIL hours need to be recorded on a timesheet on the actual days the TOIL is accrued or used. The payroll team need to know the dates and times overtime is worked and TOIL is taken.
 - ✓ **Accrued TOIL example:** A trainee works overtime hours after 5pm on 2 days in a fortnight. The trainee should record in ConnX the actual time the overtime was worked, eg 2 hours overtime from 5pm to 7pm for Friday 21 February and 1.5 hours overtime from 5pm to 6.30pm for Tuesday 25 February, rather than the trainee just notifying the payroll team they have worked 3.5 hours total overtime for the fortnight.
 - ✓ **Used TOIL example:** In ConnX, the trainee should record TOIL used from 9am to 5pm on Thursday 27 February, rather than just notifying the payroll team that TOIL has been used.

Time Off In Lieu (TOIL)

- Host Employers can't just advise that *"TOIL has been taken"*.
- The amount of TOIL to be taken or paid out is dependent on the Award. Ensure you are familiar with the TOIL rules of the Award covering your trainee, eg. does TOIL accrue at 1 hour over time = 1 TOIL hour or is it 1 overtime hour = 1.5 hours or 2 hours of TOIL?
- Awards that don't have hour for hour accrual include:
 - ✓ General Retail Award
 - ✓ Higher Education Industry – General Staff Award
 - ✓ Registered and Licensed Clubs Award
 - ✓ Sporting Organisations Award
- TOIL must be used within six months of accrual. TOIL not used within this time period will be paid out at the applicable rate under the Award. For Awards with higher accrual rates, this may be time and a half or double time. Similar rates apply for overtime worked at nights or on weekends.

Time Off In Lieu (TOIL)

- The onus is on the trainee and Host Employer to proactively discuss using TOIL hours as soon as practicable. When time off is required, TOIL should always be used first, then annual leave.
- A Trainee can elect to have accrued but unused TOIL paid out.
- Host Employers are not permitted to exert undue influence or pressure on the trainee in relation to their decision to take or not take TOIL instead of payment for overtime.
- If a Host Employer wants to continue to pay the trainee over a holiday period, they cannot simply say *"TOIL will cover it"* or *"that's what we've always done"*. This is not permitted under any of the Awards and there can be serious consequences if we operate in this way.

Annual Leave

- Annual leave should only be used when the TOIL balance has been exhausted.
- Annual leave must be submitted in ConnX for all leave taken. If a trainee or Host Employer fails to enter annual leave, the Host Employer will be liable to pay out the annual leave at the end of the traineeship or on termination, even if the trainee has taken the leave. A Host Employer can't simply say *"the leave has been taken"*. Leave must be entered into ConnX.
- Be aware that leave applications need to be approved before timesheets are submitted. They can't be approved at the same time. Timesheets are automatically rescinded if leave applications are not approved prior to a timesheet being submitted.
- Annual leave balances should be monitored closely, and should be used during the traineeship, or the balance will be paid out at the end of the traineeship or on termination.
- It is also important that trainees are using their annual leave so they can take breaks and recharge during their traineeship.

Special Leave

- We have introduced a new category of leave in ConnX called Special Leave.
- This leave is for situations where a Host Employer wants to continue to pay a trainee beyond any leave or TOIL entitlements for a period when the trainee is not required to work. Examples include:
 - School holiday periods where the trainee does not have sufficient annual leave or TOIL entitlements to cover the period.
 - Professional development days when the trainee is not required to attend but should not be expected to use their annual leave.
 - Days where a trainee is allowed to leave early or start late.
- Trainees can apply for this leave in ConnX, just as they would apply for annual leave.
- Special Leave should only be used where TOIL and annual leave have been exhausted, unless in the case of a professional development day or leaving early/starting late etc.
- This leave is in addition to TOIL and annual leave, it does not replace either.

School Based Apprentices and Trainees (SBATs)

- SBATs can work additional hours to those set out in their work schedule (e.g. during school holiday periods), but any additional hours worked need to be agreed in writing prior to any additional hours being undertaken.
- If there is no agreement in place for the trainee to work additional hours, then the additional hours must be paid at the overtime rate.
- Any changes to a trainee's hours or days must also be agreed in writing prior to the change taking place. If an agreement is not in place, the hours worked will be paid at the overtime rate.
 - ✓ **Example:** if a SBAT swaps their work day from Monday to Tuesday, the hours worked on Tuesday must be paid at the overtime rate unless an agreement is in place to swap the days prior to the work being undertaken, as Tuesday is outside the usual work schedule.
- For additional hours or changes to a trainee's hours or work days, use the **Variation to Pattern of Work and Regular Hours Form** and ensure you send a copy to your Employment Coach before the work is undertaken.

School Based Apprentices and Trainees (SBATs)

- Check the minimum shift period under the relevant Award where a SBAT is working two hours or less in any shift. If the trainee is working less than the minimum hours, they need to be paid the minimum hours for the shift, regardless of whether the full hours are worked.
 - ✓ **Example:** Some Awards have a minimum 3-hour shift length. Under any of these Awards, a trainee working only a 1-hour shift during a break at school will still need to be paid the minimum three hours.
- Occasionally, trainees will need to work shifts shorter than the minimum length in order to fit in with their school timetable and enable them to undertake the traineeship. Depending on the circumstances, the trainee may be able to sign an Individual Flexibility Agreement (IFA), agreeing to work the shorter shifts and only be paid for the actual time worked.
- An IFA is not to be used as an excuse for only paying the trainee the hours worked. There must be a genuine need for the trainee to work the shorter shifts and the trainee must be better off overall.

Allowances

- Allowances are determined by the relevant Award. They may be payable from the first day of the placement with a Host Employer or may arise during the year as the trainee's tasks change.
- It is considered 'wage theft' to withhold an allowance that should be paid.
- Types of allowances:
 - Laundry allowance – where a trainee is required to launder their own uniform.
 - Uniform allowance – where a trainee is required to purchase their own uniform.
 - First aid allowance – where a trainee is a designated First Aid Officer.
 - Travel allowance – use of a personal vehicle for work.
 - Other allowances – protective or special clothing allowance, travel time, travelling expenses, nauseous work allowance, sleepover allowance, broken shift allowance, vehicle and/or plant allowance, cold work allowance, adverse work conditions, recall allowance, transport allowance (working late or early), tools reimbursement.

Allowances

- Reimbursement allowances, where the trainee is entitled to be reimbursed for the expense incurred, are generally not fixed and cannot be applied for via ConnX. For example, travel expenses, special protective clothing and under some Awards, uniforms if not provided. Contact us if one of these allowances apply to your trainee and we will guide you through the reimbursement process.
- Overtime meal allowances may also apply where overtime is worked. If you have a trainee working overtime (but not on a camp where meals are provided), please contact us for advice on whether an overtime meal allowance applies. If a meal allowance does apply, this is claimed at the time the trainee submits their timesheet.

Performance Management

- Sometimes trainees do not meet the expectation of the Host Employer and performance management is required.
- Performance management may be needed when:
 - ✓ The trainee is not able to deliver the work tasks on time or to an acceptable standard. This is known as underperformance; or
 - ✓ The trainee cannot meet the inherent requirements of the job due to physical or psychological limitations or a failure to achieve a pre-requisite condition of the position; or
 - ✓ The trainee's behaviour and attitude does not align with the culture and code of conduct expected of people employed with AFL SportsReady or the Host Employer; or
 - ✓ A combination of the three listed above.

Performance Management

- Performance management is designed to assist the trainee to understand where they are missing the expectation and to clearly identify a path to rectify the situation.
- When performance management is done well, a trainee can become an engaged and high-performing employee. When it is done poorly, it puts the trainee, the Host Employer and AFL SportsReady at risk.
- Performance management is governed by laws and there are strict rules on how and when it should occur, what can and can't be said/written and what outcomes can result.
- As a trainee is a legal employee of AFL SportsReady, we need to manage the performance management process, but we will always do so in cooperation with the Host Employer.
- The key to successful performance management is early intervention and coaching before the matter escalates into a formal process.

Performance Management

- Tips for successful development and performance management of trainees
 - ✓ Build a close and trust-based relationship with your trainee so you have good visibility of how they are feeling and performing in the role.
 - ✓ Communicate issues with your Employment Coach at the very first sign of a potential problem. Early identification can often completely remove the need for formal performance management.
 - ✓ Take detailed notes when things start to go off track or an incident occurs that involves the trainee. Notes should include dates, what happened, where it happened, witnesses, are any minors involved, does it classify as a reportable WHS/Child Safe/Mandated Reporting incident, etc?

WHS Incident and Accident Reporting

Host Employers and trainees have a legal obligation to report Workplace Health & Safety (WHS) incidents and accidents.

- A **WHS incident** is an unplanned event in the workplace that could cause harm, injury, illness, or damage. This includes near misses, which are events that could have caused harm but did not.

- Examples of WHS incidents:

A fire or explosion

Exposure to hazardous substances

An electric shock

Property damage

A fall from a height

A slip on a wet floor with no injury sustained

- Where an incident occurs, the trainee must report it to AFL SportsReady within 48 hours via the Incident Reporting Form.
- Once a form is received, it is reviewed by the HR/WHS team who will provide further advice on any investigative or corrective action required.

WHS Incident and Accident Reporting

- A **WHS accident** is an unplanned event that results in injury, property damage, or other negative consequences. WHS accidents requires immediate investigation and reporting.
- A WHS accident can indicate a failure in safety procedures or systems.
- Examples of WHS accidents:
 - A sprained ankle while on a school camp;*
 - A motor vehicle accident where a vehicle is damaged, or a person is injured, or both;*
 - A trainee falls from a ladder and sustains a broken arm;*
 - Bullying or inappropriate conduct causes distress and psychological injury.*
- Where an accident occurs, the trainee must report it to AFL SportsReady within eight hours via the Incident Reporting Form.
- Once a form is received, it is reviewed by the HR/WHS team who will provide further advice on any investigative or corrective action required.

WHS Incident and Accident Reporting

Some incidents are known as **Notifiable Incidents** and must be reported to the relevant State or Territory Safety Authority by law.

A Notifiable Incident is:

- death of a person;
- a person needing medical treatment within 48 hours of being exposed to a substance;
- a person needing immediate treatment as an in-patient in a hospital;
- a person needing immediate medical treatment for one of the following injuries: amputation, serious head injury or serious eye injury, removal of skin (example: de-gloving, scalping), electric shock, spinal injury, loss of a bodily function, serious lacerations (example: requiring stitching or other medical treatment).

WHS Incident and Accident Reporting

These situations must also be reported:

- An uncontrolled escape, spillage or leakage of any substance, including dangerous goods within the meaning of the Dangerous Goods Act 1985.
- An implosion, explosion or fire.
- An electric shock.
- The fall or release from a height of any plant, substance or thing.
- The collapse or partial collapse of a building or structure.

Should any of these incidents arise, the trainee or Host Employer should contact AFL SportsReady for advice, within two hours of the event occurring.

Next Steps

- You will be sent a link to access a copy of this slide deck and a recording of this presentation.
- We are currently preparing/updating the following Information Sheets, and you will receive a link with access to these Information Sheets:
 - ✓ Managing Trainee Timesheets
 - ✓ Laundry and Uniform Allowances (update)
- Please reach out if you have any queries:

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Questions?



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